BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

STELLA E. WILLIAMS Claimant	
VS.) Docket No. 193,723
KANSAS STATE UNIVERSITY Respondent)
AND	
STATE SELF INSURANCE FUND Insurance Carrier	

ORDER

Claimant appeals from a Preliminary Hearing Order entered by Administrative Law Judge James R. Ward denying temporary total disability and medical benefits.

ISSUES

Respondent argues that the issues should include whether claimant has established an injury arising out of and in the course of her employment; whether claimant gave timely notice; and, whether claimant has established just cause for failure to give timely notice. Claimant, on the other hand, argues that the claim should be remanded with the request that the Administrative Law Judge identify the basis for his decision denying benefits.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments of the parties, the Appeals Board finds the claimant has not established by a preponderance of credible evidence that she suffered an accidental injury arising out of and in the course of her employment. The Order of the Administrative Law Judge denying benefits should, therefore, be affirmed. As claimant's counsel points out there are several possible bases for the decision denying benefits. The Appeals Board does, in some cases, remand for identification of the findings. In this case, however, the Appeals Board does not consider it necessarily appropriate to remand because, from a review of the record as a whole, the Appeals Board has concluded that the evidence does not establish accidental injury arising out of and in the course of her employment.

At the conclusion of the Preliminary Hearing, the Administrative Law Judge stated he felt the evidence supported a finding of accidental injury arising out of and in the course of employment. There were, however, six subsequent depositions taken by the respondent. The medical records of treatment after the alleged date of accident do not include a history of a work-related accident. Claimant did not relate a work-related accident to any of the individuals at work. In fact, she related a history of conflict with the supervisor which would not have been a compensable work-related injury. She did not describe a compensable work-related injury until after she had been advised that the consistent history she had given would not entitle her to workers compensation benefits. On the basis of those facts the Appeals Board finds that claimant has not established accidental injury arising out of and in the course of her employment.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the decision of Administrative Law Judge James R. Ward, dated December 9, 1994, should be, and the same is hereby, affirmed.

IT IS SO ORDERED.
Dated this day of March, 1995.
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c: Stella E. Williams, Junction City, KS Kathryn D. Myers, Topeka, KS James R. Ward, Administrative Law Judge George Gomez, Director